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44 CFR Ch. I (10–1–13 Edition)

ARTICLE XVI—RELATIONSHIP BETWEEN THE PARTIES (FEDERAL GOVERNMENT AND COMPANY) AND THE INSURED

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, *i.e.*, to assure that any taxpayer funds are accounted for and appropriately expended. The Company is a fiscal agent of the Federal Government, but is not a general agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any policy issued pursuant hereto, such that the Federal Government is not a proper party to any lawsuit arising out of such policies.

ADDENDUM TO APPENDIX A TO PART 62—FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE AND MITIGATION ADMINISTRATION, FINANCIAL ASSISTANCE/SUBSIDY ARRANGEMENT

NOTE: This Addendum to Appendix A to Part 62 applies only to a public entity risk-sharing organization, an association of local governments, a State association of political subdivisions, a State-sponsored municipal league, and any other intergovernmental risk-sharing pool for covering public entity structures participating in the pilot project established in §62.24(b) that permits intergovernmental risk-sharing pools to provide flood insurance to public entities to cover public buildings.

(1) “Company” in the preceding Arrangement includes “a public entity risk-sharing organization, an association of local governments, a State association of political subdivisions, a State-sponsored municipal league, and any other intergovernmental risk-sharing pool for covering public entity structures.”

(2) The references to “marketing guidelines” in Article II—Undertaking of the Company and to “marketing goals” in Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds shall apply only to the private insurance companies participating in the WYO program.

[62 FR 39910, July 24, 1997, as amended at 63 FR 32761, June 16, 1998; 64 FR 27709, May 21, 1999; 65 FR 36634, June 9, 2000; 66 FR 40917, Aug. 6, 2001; 67 FR 13550, Mar. 22, 2002; 67 FR 51769, Aug. 9, 2002; 68 FR 52701, Sept. 5, 2003; 68 FR 75454, Dec. 31, 2003; 69 FR 23659, Apr. 30, 2004; 69 FR 45611, July 30, 2004; 73 FR 18187, 18188, Apr. 3, 2008]

APPENDIX B TO PART 62—NATIONAL FLOOD INSURANCE PROGRAM

A PLAN TO MAINTAIN FINANCIAL CONTROL FOR BUSINESS WRITTEN UNDER THE WRITE YOUR OWN PROGRAM.

(a) *In general.* Under the Write Your Own (WYO) Program, we (the Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA)) may enter into an arrangement with individual private sector insurance companies licensed to engage in the business of property insurance. The arrangement allows these companies—using their customary business practices—to offer flood insurance coverage to eligible property owners. To assist companies in marketing flood insurance coverage, the Federal Government will be a guarantor of flood insurance coverage for WYO policies issued under the WYO Arrangement. To account for and ensure appropriate spending of any taxpayer funds, the WYO companies and we will implement this Financial Control Plan (Plan). Only the Federal Insurance Administrator may approve any departures from the requirements of this Plan.

(b) *Financial Control Plan.* (1) The WYO Companies are subject to audit, examination, and regulatory controls of the various States. Additionally, the operating department of an insurance company is customarily subject to examinations and audits performed by the company’s internal audit or quality control departments, or both, and independent Certified Public Accountant (CPA) firms. This Plan will use to the extent possible the findings of these examinations and audits as they pertain to business written under the WYO Program.

(2) This Plan contains several checks and balances that can, if properly implemented by the WYO Company, significantly reduce the need for extensive on-site reviews of the Company’s files by us or our designee. Furthermore, we believe that this process is consistent with customary reinsurance practices and avoids duplication of examinations performed under the auspices of individual State Insurance Departments, NAIC Zone examinations, and independent CPA firms.

(c) *Standards Committee established.* (1) We establish in this Plan a Standards Committee for the WYO Program to oversee the performance of WYO companies under this Plan and to recommend appropriate remedial actions to the Federal Insurance Administrator. The Standards Committee will review and recommend to the Federal Insurance Administrator remedies for any adverse action arising from the implementation of the Financial Control Plan. Adverse actions include, but are not limited to, not renewing a particular company’s WYO Arrangement.

(2) The Federal Insurance Administrator appoints the members of the Standards Committee, which consists of five (5) members from FIA, one (1) member from FEMA's Office of Chief Financial Officer, and one (1) member from each of the six (6) designated WYO Companies, pools, or other entities.

(3) A WYO company must—

(A) Have a biennial audit of the flood insurance financial statements conducted by a CPA firm at the Company's expense to ensure that the financial data reported to us accurately represents the flood insurance activities of the Company. The CPA firm must conduct its audits in accordance with generally accepted auditing standards (GAAS) and the Government Auditing Standards issued by the Comptroller General of the United States (commonly known as "yellow book" requirements). The Company must file with us a report of the CPA firm's detailed biennial audit, and, after our review of the audit report, we will convey our determination to the Standards Committee.

(B) Participate in a WYO Company/FIA Operation review. We will conduct a review of the WYO Company's flood insurance claims, underwriting, customer service, marketing, and litigation activities at least once every three (3) years. As part of these reviews, we will reconcile specific files with a listing of transactions submitted by the Company under the Transaction Record Reporting and Processing Plan (Part 5). We will file a report of the Operation Review with the Standards Committee (Part 7).

(C) Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing (TRRP) Plan and the WYO Accounting Procedures Manual. The National Flood Insurance Program's (NFIP) Bureau and Statistical Agent will analyze the transactions reported under the TRRP Plan and submit a monthly report to the WYO company and to us. The analysis will cover the timeliness of the WYO submissions, the disposition of transactions that do not pass systems edits, and the reconciliation of the totals generated from transaction reports with those submitted on the WYO Company's reports. (Parts 2 and 6).

(D) Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

(E) Cooperate with us in the implementation of a claims reinspection program (Part 3).

(F) Cooperate with us in the verification of risk rating information.

(G) Cooperate with DHS's Office of Inspector General on matters pertaining to fraud.

(d) This Plan incorporates by reference a separate document, "The Write Your Own Program Financial Control Plan Requirements and Procedures," that contains the following parts, each of which is incor-

porated by reference into and is applicable to the Financial Control Plan:

(1) Part 1—Financial Audits, Audits for Cause, and State Insurance Department Audits;

(2) Part 2—Transaction Record Reporting and Processing Plan Reconciliation Procedures;

(3) Part 3—Claims Reinspection Program;

(4) Part 4—Report Certifications and Signature Authorization;

(5) Part 5—Transaction Record Reporting and Processing Plan;

(6) Part 6—Write Your Own (WYO) Accounting Procedures Manual; and

(7) Part 7—Operation Review Procedures.

(e) Interested members of the public may obtain a copy of "The Write Your Own Program Financial Control Plan Requirements and Procedures" by contacting the FEMA Distribution Center, P.O. Box 2012, Jessup, MD 20794."

[64 FR 56176, Oct. 18, 1999]

PART 63—IMPLEMENTATION OF SECTION 1306(c) OF THE NATIONAL FLOOD INSURANCE ACT OF 1968

Subpart A—General

Sec.

63.1 Purpose of part.

63.2 Condemnation in lieu of certification.

63.3 Requirement to be covered by a contract for flood insurance by June 1, 1988.

63.4 Property not covered.

63.5 Coverage for contents removal.

63.6 Reimbursable relocation costs.

63.7 Amount of coverage and deductible on effective date of condemnation or certification.

63.8 Limitation on amount of benefits.

63.9 Sale while claim pending.

63.10 Demolition or relocation contractor to be joint payee.

63.11 Requirement for a commitment before October 1, 1989.

63.12 Setback and community flood plain management requirements.

Subpart B—State Certification of Structures Subject to Imminent Collapse

63.13 Purpose of subpart.

63.14 Criteria for State qualification to perform imminent collapse certifications.

63.15 State application for eligibility to certify structures subject to imminent collapse.

63.16 Review of State application by the Federal Insurance Administrator.

63.17 Procedures and data requirements for imminent collapse certifications by States.